IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.19781 OF 2002

AND

WRIT PETITION NO.20350 OF 2002

IN W.P.NO.19781 OF 2002:

Between:

Prem Kumar Bisoi S/o. Bolloboi Bisoi
R/o. Pradhana Puttuga, Srikakulam

..... PETITIONER

AND

1 The Dist. Collector Srikakulam
Srikakulam
2 The Revenue Divisional Officer
Tekkali, Srikakulam
3 The Chiarperson, Selection Committee NTR University of Health Sciences
Vijayawada Krishna Dist.
4 The Registrar, NTR University of Health Sciences
Vijayawada Krishna Dist.
5 The Principal, Siddartha Medical College
Vijayawada
6 The Govt. of A.P., rep.by its Prl. Secretary Social Welfare Dept.,
Secretariat Bldgs, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in nature of writ of Mandamus directing the respondents 3 to 5 to permit the petitioner to pursue MBBS course in pursuance of selection in EAMCET 2002 on 2/10/2002 and selection though Memo dt: 2/10/2002 without insisting upon production of the case community certificate for the present till the 2nd respondent pass order in pursuance of the order in WP No.18644 of 2001 dt: 7/9/2001 in the interest of justice.

Counsel for the Petitioner : MR. B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondent Nos.1, 2 & 6 : GP FOR SOCIAL WELFARE

Counsel for R-3 & R-4 : Dr. Y.Padmavathi

Counsel for R-5 : None appeared

IN WRIT PETITION NO : 20350 of 2002

Between:

Prem Kumar Bisoi S/o. Bollobo Bisoi
R/o. Pradhana Puttuga, Srikakulam

..... PETITIONER

AND

1 The Dist. Collector Srikakulam
Srikakulam
2 The Revenue Divisional Officer
Tekkali, Srikakulam
3 The Chairperson, Selection Committee NTR University of Health Sciences
Vijayawada, Krishna Dist.
4 The Registrar NTR University of Health Sciences
Vijayawada, Krishna Dist.
5 The Principal Siddartha Medical College
Vijayawada,
6 The Govt. of A.P. rep.by its Prl. Secretary, Social Welfare Dept.,
Secretariat Bldgs, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in nature of writ of Mandamus setting aside the order of the 2nd respondent in RC.No.2628/2001G dt: 18/10/2001 (not received by the petitioner so far) declaring it as against Principles of Natural Justice and contrary to Govt. Memo No: 22427/CV.2/93, dt: 3/5/1999 and the procedure laid down in Rule 5 framed under Act 16 of 1993 after declare the same as arbitrary, illegal, and against Principles of Natural Justice without application of Mind or used with anti date under Colourbale Exercise of Power, and consequently direct the 1st respondent to issue the community certificate to the petitioner as belonging to Bentho-Oriya Community by considering the Caste Certificate issued in the name of the petitioner brothers by the Tashildar Somapeta and M.R.O., Kanchi

and on the basis of the documents produced by following the procedure laid down in Rule 5of the Rules framed under Act 16 of 1993 i.e., (S.C., S.T., & B.C. 'S) Regulation of issue of community certificate & Rules 1997 and to permit the petitioner to direct the respondents 3 to 5 to prosecute MBBS course without any hindrance in the interest of justice.

Counsel for the Petitioner : MR. B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondent Nos.1, 2 & 6 : GP FOR SOCIAL WELFARE

Counsel for R-3 & R-4 : Dr. Y.Padmavathi

Counsel for R-5 : None appeared

The Court made the following common order :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.19781 OF 2002

AND

WRIT PETITION NO.20350 OF 2002

COMMON ORDER:

The petitioner claims that he belongs to Bentho Oriya Community, a Scheduled Tribe. Aggrieved by the alleged inaction on the part of the Revenue Divisional Officer, Tekkali in considering his applications for issuance of Community Certificate, the petitioner filed W.P.No.18753 of 1998 and W.P.No.18644 of 2001, which were disposed of by this Court with a direction to pass appropriate orders. The petitioner alleges that the respondents failed to pass any orders and in the meanwhile he appeared for the EAMCET-2002 and having secured the rank of 8770, appeared for the counselling and he was selected for admission into MBBS for the academic year 2002-2003 under S.T. category. In pursuance thereof, the petitioner was directed by the NTR University of Health Sciences by proceedings dated 02-10-2002 to report to the District Collector concerned on or before 08-10-2002 with the documents specified thereunder which includes latest community certificate to get his social status verified. The grievance of the petitioner is that since his representations for issuance of community certificate are still pending with the

2nd respondent in spite of the orders of this Court which fact has already been brought to the notice of the third respondent University, the third respondent ought to have permitted him to join the I-year MBBS course for the academic year 2002-03 without insisting on production of community certificate.

In the circumstances, W.P.No.19781 of 2002 has been filed seeking a direction to the respondents 3 to 5 to permit the petitioner to pursue MBBS course on the basis of the selection in EAMCET-2002 without insisting upon production of the community certificate and for a further direction to the second respondent to pass appropriate orders in terms of the order of this Court in W.P.No.18644 of 2001.

This Court by order dated 07-10-2002 directed notice to the respondents. The petitioner states that in the meanwhile, the counsel for the petitioner was informed by the second respondent by letter dated 27-9-2002 stating that the application of the petitioner was disposed of long back by order dated 18-10-2001 rejecting the request of the petitioner for issuance of a certificate that he belongs to Bentho Oriya (S.T.).

In the circumstances, W.P.No.20350 of 2002 has been filed questioning the proceedings of the second respondent – Revenue Divisional Officer, Tekkali, dated 18-10-2001 on various grounds.

Though Rule Nisi was ordered on 11-10-2002, this Court declined to grant either suspension of the impugned order dated 18-10-2001 or a direction to the respondents 3 to 5 to admit the petitioner into I-year MBBS course for the academic year 2002-03.

These two writ petitions are listed together for hearing and when the same are taken up for consideration, it is brought to my notice by the learned Government Pleader that during the pendency of these writ petitions the petitioner was afforded another opportunity by the second respondent – Revenue Divisional Officer to produce the required documentary evidence and to appear in person to support his claim that he belongs to Bentho Oriya (S.T.). However, he failed to avail the said

opportunity and since the documents already produced are not sufficient to support the claim of the petitioner, on the basis of an enquiry report submitted by the Mandal Revenue Officer, Kanchili, the request of the petitioner for issuance of Bentho Oriya (ST) Certificate has been rejected vide proceedings dated 01-11-2004.

The said fact has not been disputed by the learned Counsel for the petitioner and it is stated that the petitioner has already filed W.P.No.22451 of 2004 challenging the said proceedings of the Revenue Divisional Officer, dated 1-11-2004.

The learned Government Pleader also states that under the provisions of the A.P. (SC, ST & BC) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act'), against the said order, dated 1-11-2004, an Appeal is provided under Section 7 and therefore the petitioner is not entitled to seek any relief in these writ petitions.

Since admittedly the second respondent who is the competent authority under the provisions of the Act of 1993 has reconsidered the matter and passed fresh order rejecting the claim of the petitioner which is the subject matter of a subsequent writ petition, I am of the view these two writ petitions do not deserve any adjudication on merits.

Accordingly, these two writ petitions are dismissed as infructuous. However, it shall be open to the petitioner to urge all the grounds that have been raised in these writ petitions in the fresh writ petition filed against the proceedings dated 01-11-2004. No costs.

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G. ROHINI, J

Dated: 18-01-2005.

gbs

To

1 The Dist. Collector Srikakulam, Srikakulam.
2 The Revenue Divisional Officer, Tekkali, Srikakulam
3 The Chairperson, Selection Committee, NTR University of Health Sciences Vijayawada, Krishna Dist.
4 The Registrar, NTR University of Health Sciences Vijayawada, Krishna Dist.
5 The Principal, Siddartha Medical College, Vijayawada,
6 The Principal Secretary, Govt. of A.P., Social Welfare Dept., Secretariat Bldgs, Hyderabad

7.2CCs to G.P. for Social Welfare, High Court of AP Bldgs, Hyderabad (OUT).

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